IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI

WRIT PETITION NO. 34332 OF 1997

Dated : October 3, 2007

Between:

B.Venkoji Rao

Petitioner

AND

The Andhra Pradesh State Electricity Board,
Rep. By its Member Secretary,
Vidyut Soudha, Somajiguda,
Hyderabad.

Respondent

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI

WRIT PETITION NO. 34332 OF 1997

ORAL ORDER:

This writ petition is filed seeking a writ of mandamus declaring the show cause notice issued in Memo No. CE/Eng/DM.V/1351/ P2/95-2 dated 10.10.1997 by the respondent as illegal, arbitrary and contrary to the Regulations and settled law.

The petitioner worked as Additional Assistant Engineer (Civil) in the respondent Board, which is under Class-III, Category 1 of the Board Service Regulations and the Disciplinary Authority is Chief Engineer. The petitioner while working as Additional Assistant Engineer, Lower Sileru Project, Dornakal, was charge sheeted alleging that he did not account for the material way back in 1982 to 1987 and that he failed to avail MODVAT facility extended by the Central Excise Department with effect from 1.3.1987 to 13.9.1989.

The petitioner raised several grounds contending that he had closed all the work orders from time to time and also rendered accounts. It is his case that he mooted proposals in respect of MODVAT to the Divisional Electrical Engineer, who is head of the unit, soon after receipt of information regarding availability of MODVAT. It is also contended that since the show cause notice is issued by the appellate authority viz., Board, represented by the Member Secretary, to whom appeal lies, the petitioner will be deprived of appeal and, hence, the order is vitiated.

Evidently, this writ petition is filed against a show cause notice. As admitted by the petitioner himself, in culmination of the Departmental action, an appeal lies to the Board. Therefore, the petitioner ought to have submitted an explanation to the show cause notice

bringing to the notice of the respondent all the pleas, which are raised in this writ petition. The petitioner, without submitting explanation, has straightaway rushed to this court invoking the extraordinary jurisdiction of this court under Article 226 of the Constitution of India. Therefore, the writ petition is not maintainable.

Consequently, while dismissing the writ petition, it is directed that the petitioner shall file his reply within a period of four weeks from the date of receipt of a copy of this order, if not already submitted, failing which, the respondent is at liberty to proceed in accordance with law. No order as to costs.

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Mrs. Justice T.Meena Kumari

October 3, 2007
MAS